

**IN THE COURT OF ADDL. SENIOR CIVIL JUDGE & JMFC.,
RANEENNUR**

PRESENT: **SRI RAJESH M. KAMATE,**
B.Com., LL.B (Spl)
Addl. Senior Civil Judge
& J.M.F.C., Ranebennur

O.S. No.99/2019

DATED THIS THE 5th DAY OF JUNE - 2020

Plaintiff: Smt. Sakinabi W/o Najeersab Mustur
and others

/vs/

Defendants:1] Khamarunnisa W/o Late Abdul Muttali
Abdul majidsab Halageri and others

Parties to I.A.No. I

Applicant: 1. Smt. Sakinabi W/o Najeersab Mustur
and others

/vs/

Opponents :1. Khamarunnisa W/o Late Abdul Muttali
Abdul majidsab Halageri and others

ORDERS ON IA No: 1

The present application is filed by the plaintiff U/o 39 rule 1 and 2 against defendant no. 13 to 20 seeking Temporary Injunction restraining the defendants from alienating the suit property to anybody else in any manner.

2. In the accompanying affidavit, it has been stated that the plaintiff and defendant no. 1 to 12 are the legal heirs of their original propertious Abdul Majidsab Kasimsab Halageri and his wife by name Jainabi who are already died. Whereas they had son by name Abdul Muttalli Abdul Majidsab Halageri @ Soudagar who is

the husband of defendant no.1 and father of defendant no.2 to 10 and also the remaining defendant no. 11 and 12 along with plaintiff no. 1, 2 and 6 are the childrens of said Abdul Muttalli Abdul Majidsab Halageri @ Soudagar. Hence defendant no. 1 to 12 are the legal heirs of original propositus Abdul Majidsab Halageri @ Soudagar and after their death the right title and interest over the suit properties has been succeeded by them as their legal heirs and also their names have been entered in the RTC records with respect to suit property and as such all of them are the owners of suit property as Tenants-in-Common.

3. It is also contended that, Late Abdul Majidsab Kasimsab Halageri during his life time on 26-09-1977 as per the order of Tribunal no. LRF(A) 12+11+8+19+18/76 has been declared as owner of the said property with condition restraining him from alienating the suit property for a period of 15 years as per order passed by the Tahsildhar on 05-07-1996. Whereas the said property is situated at Nandihalli village at Ranebennur taluk in Sy.No. 66, 3rd part measuring 6 acre bearing R.S. No. 66/3 is the suit property allotted to him by the Tribunal. However the said property was in possession and in enjoyment of the said original propositus Abdul Majidsab Kasimsab Halageri as Tenant prior to 26-09-1977 and also thereafter on the basis of order he has become owner of the said property and further they record of right has also been entered in his name as owner of the said property as per ME entry No. 1566 dated 01-02-1984 and as such no other person has any right or title over the said property

4. It is also contended that, the said Abdul Majidsab Kasimsab Halageri has died on 10-12-1985 and thereafter the father of defendant no. 13 to 17 by name Hanumanthappa

Mavinatopu has contacted their mother and his first son Abdul asked for cultivating the suit property orally and the same was agreed by them by way of oral agreement in the 1987 and also every year the crop grown from the said suit land has been given to them which was divided among themselves but the title was remaining with them. Whereas after the death of Abdul Majidsab Soudagar on 16-09-2017 the said Hanumanthappa has also died and their children's defendant no. 14 and 17 has continued in the possession by cultivating the same but on 07-09-1996 the said Hanumanthappa Mavinatopu and Basteppa murugeppa Pattanashetti has got created sale deed of 3 acres each with respect to suit property and the same came to the knowledge of the plaintiff on 01-07-2019 and thereafter when themselves and defendant no. 1 to 10 asked about the same the defendant no. 11 and 12 has stated that they have not sold any property and also they have not put their signature to the document.

5. Thereafter they had approached the advocate with respect to the said matter on 12-07-2019 and also has obtained the RTC records about the suit property but to the utter surprise of them they came know that the said title has been transferred from Abdul Majidsab Kasimsab Halageri to Hanumanthappa Mavinatopu and Basateppa Murgeppa Pattanashetty behind their back but the EC still was standing in the name of their original propositious

6. Therefore, as the name of the said persons has been entered by creating forged documents which is not binding on them but as both their persons have died there is every likely hood by defendant no. 13 to 20 to get entered their names in the record of rights for which they asked them orally but the same was straight away rejected by them and inspite of their request and

legal efforts the said defendant no. 13 to 20 are in hot hurry to alienate the suit property to anybody else and if they succeed in the same the plaintiffs and defendant no. 1 to 12 will be put to more loss and injury and also it will amount to multiplicity of proceedings for which they have filed the suit and the present application seeking injunction restraining the defendant no.13 to 20 from alienating the suit property to anybody else in any manner till disposal of the same.

7. Per contra defendant no. 20 has filed memo to adopt the written statement as objection in which he has denied the entire averments of plaint in toto.

8. However it is contended that the husband of defendant no.1 and father of defendant no.13 to 17 by name Hanumanthappa Mavinatopu and the father of defendant no. 18 to 20 Basateppa Murugeppa Pattanashetty has purchased the suit property measuring 3 acres each in their name on 07-09-1996 through registered sale deed and also their name has been entered in the record of rights, accordingly on the basis of registered sale deed they have become the owner and possessor of the suit property and are cultivating the same till their death. Whereas after the death of the said persons defendant no. 13 to 20 has become the owner of the said property as their legal heirs and are in enjoyment and possession of the same but inspite of knowing the said fact the plaintiff in order to harass the defendants has filed the false suit which is not maintainable in the eyes of law. Hence, the said defendant no.13 to 20 have become the owners and possessors of the suit property and also are in possession and enjoyment of the suit property by way of cultivation and as such if TI is granted the

they will be put more loss and hardship and on these grounds has prayed to dismiss the application.

9. In support of the suit and application the plaintiffs have produced 8 documents and also defendants have produced 7 documents.

10. Heard both sides and perused the documents.

11. The points that arises for my consideration are as follows:

- 1) Whether the plaintiff has made out prima-facie case?**
- 2) Whether the balance of convenience lies in favour of the plaintiff?**
- 3) Whether the plaintiff will be put to more loss if injunction is not granted?**
- 4) What order?**

12. My answers to the above points are as under:

Point No.1 to 3 : In the Affirmative

Point No.4 : As per final order for the following :

REASONS

13. **Point No.1 to 3:**

Having regard to the above facts and circumstances of the case it goes to show that both the plaintiffs along with defendant no.1 to 12 are contending that the said property was belonging to original propitious by name Abdul Majidsab Kasimsab Halageri and after his death they have become the owner of the said property and the suit land has been given for cultivation to the elders by name Hanumanthappa Mavinatopu and Basateppa Murugeppa Pattanashetty and also it is contended that the said

land are granted by Tribunal to their original propositious but the said defendants have got created false sale deed which is not binding on them and as such they are in possession of the suit properties.

14. Whereas defendant no. 13 to 20 have contended that the original propositious and the husband of defendant no.1 and father of defendant no.2 Abdul Majidsab Kasimsab Halageri has sold the suit property to their elder Hanumanthappa Mavinatopu and Basateppa Murugeppa Pattanashetty which is purchased by them through registered sale deed and accordingly they had become the owner of the suit property and after their death the said defendants have become the owner of the suit property.

15. Having regard to the above facts and circumstances and on perusal of the documents available before this court it goes to show that both the parties in their rival contention are claiming title and ownership over the suit property and also have produced the documents before this court but on perusal of the said document with respect to Land Tribunal order, PT sheet and RTC along with EC goes to show that the name of original propositious Abdul Majidsab Kasimsab Halageri is entered and also in the original documents produced to defendant no.13 to 20 with respect to both sale deed dated 20-08-1996, RTC records, and their documents which also goes to show that the said property has been purchased by their elders Hanumanthappa Mavinatopu and Basetappa Murudeppa Pattanashetty through registered sale deed and accordingly their name has been entered in the record of rights.

16. Hence, on the date of filing of the suit it clearly goes to show that, the said documents of RTC along with ME entry are standing in the name of the Hanumanthappa Mavinatopu and after

his death their Lrs defendant no.13 to 20 are also brought on record and their name is entered in the RTC records as per ME entry and as such it clearly goes to show that the name of defendant no. 13 to 20 is appearing in the records of rights, RTC column as owner and possessor as on the date of filing of the suit.

17. However, looking into the relief sought by the plaintiff in this application is concerned it goes to show that the plaintiffs are seeking injunction against the defendant no.13 to 20 restraining them from alienating the suit property in any manner to anybody else till disposal of the suit on the basis of the contentions that after the death of their original propitious Abudul Majidsab they have become the owner of the said property and also have produced the documents to show that the said land has been granted by Tribunal in favour of their original propitious Abdul Majidsab Kasimsab Halageri .

18. Hence, whether the defendants have become owner of the suit property on the basis of registered sale deed purchased by their elders or the plaintiffs original propitious Abdul Majidsab Kasimsab Halageri is the owner requires full pledged trial after completion of evidence in which both the parties is required to lead their evidence in order to prove their contention as pleaded by them in the plaint and written statement but at this stage if the defendant no.13 to 20 succeeds in alienating the the suit property to anybody else it will be definitely amount to multiplicity of proceedings and in order to avoid the same they has to be restrained by way of injunction till disposal of the suit.

19. However, looking into the relief sought by the plaintiff in this application for injunction agianst defendant no.. 13 to 20 and if the same is not granted then it will definitely amount to

multiplicity of proceedings and in order to avoid the same defendant no. 13 to 20 are to be restrained by way of injunction from alienating the suit property to anybody else in any manner till disposal of the suit.

20. Therefore in view of my discussion at this stage I am of the opinion that plaintiff has made out prima facie case and also balance of convenience lies in their favour and if TI is not granted they will be put to more loss and injury and accordingly **I answer point no.1 to 3 in the Affirmative.**

21. **Point No. 4.**

In view of my finding on Point No 1 to 3, I proceed to pass the following:

ORDER

IA No 1 filed by the plaintiff against defendant no. 13 to 20 is hereby allowed.

Accordingly defendants no. 13 to 20 are hereby restrained by way of injunction from alienating the suit schedule property bearing Sy.No. 66/3. situated at Kuppelur , Nandihalli village measuring 6 acre to anybody else in any manner till disposal of the suit.

(Dictated to the stenographer, Directly on Computer transcribed by her, and then corrected, signed and pronounced by me in the Open Court, on this 05-06-2020.)

sd/-

*I Addl. Senior Civil Judge
& JMFC., Ranebennur*